IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 16321 of 2007(R)

AGAINST THE ORDER IN IA 1829 2005 IN
OS.296/2005 of I ADDL.M.C.,NEYYATTINKARA

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PETITIONER:

WILVET, S/O.MANUEL, AGED 48 YEARS,
RESIDING AT MANJU BHAVAN, PALLAMPURAYIDAM,
POZHIYOOR P.O., NEYYATTINKARA.

BY ADV. SRI.P.K.BEHANAN
SMT.K.J.ANCY

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS
DISTRICT COLLECTOR, COLLECTORATE,
VANCHIYOOR P.O., TRIVANDRUM.

2. TAHASILDAR (R.R) TALUK OFFICE,
NEYYATTINKARA.

3. VILLAGE OFFICER, KULATHOOR VILLAGE
OFFICE, NEYYATTINKARA, TRIVANDRUM.

BY GOVERNMENT PLEADER SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS EXTS:

EXT.P1: TRUE COPY OF THE INJUNCTION ORDER DT. 29.3.06 PASSED IN I.A.NO: 1829/05 BY THE MUNSIFF COURT, NEYYATTINKARA

EXT.P2: -DO- OF THE PETITION DT.5.4.06 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT TAHASILDAR

RESPONDENTS' EXTS:

EXT.R2A: A TRUE COPY OF THE JUDGMENT IN O.P.12766/98

EXT.R2B: -DO- O.P. 18979/96

EXT.R2C: -DO- OF THE MAHAZAR AND PLAN

jj /TRUE COPY/

PA. TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 16321 OF 2007 R

Dated this the 18th June, 2007.

JUDGMENT

This writ petition is filed to quash all proceedings of auction sale conducted on 30.3.2006 by ignoring Ext.P1 injunction order dated 29.3.2006 of the Munsiff Court, Neyyattinkara. Ext.P1 is an injunction order passed by the I Additional Munsiff in I.A.1829/05 in O.S.296/05. It is stated therein that the injunction petition is allowed and the respondents are restrained by a temporary prohibitory injunction from proceeding against the plaint schedule property and evicting plaintiff forcefully from the plaint schedule property. The Court also observed that sale deed No: 199/05 produced by the petitioner prima facie shows that he has got title over the plaint schedule property. Now the grievance of the writ petitioner is that sale has been conducted with respect to that property and if it is true it is in total violation of the order of injunction passed by the court. The respondents in the writ petition have filed a detailed counter and in para 7 of the counter it is stated:

> "It is submitted that no portion of the property which is the subject matter in O.S.296/05 is sold in the auction conducted on 30.3.2006. It is respectfully submitted that the auction was only with regard tot he property

> owned by Francis Layonse and which is attached in revenue recovery proceedings No: D2-32264/92."

Again in para 8 it is submitted that no portion of the property in possession of Wilvet is included in the revenue recovery proceedings. So, in the light of the reiterated statements in the counter that the property involved in O.S.296/05 has not been the subject matter of auction, no further relief need be granted to the writ petitioner. But the statements made in the counter are recorded and the writ petition is closed.

M.N.KRISHNAN
Judge

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